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FOREIGN SERVICE DESPATCH

DEPARTMENT OF STATE, AMCC/MR

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FROM: USHIOJAD, TOKYO
TO: THE DEPARTMENT OF STATE, WASHINGTON.

DESP. NO.

August 16, 1951

DATE

REF: Dept's A-616, June 29, 1951

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SUBJECT: Negotiation of Treaty of Friendship, Commerce and Navigation with Japan
Suggestions from Ministry of Foreign Affairs

Responsive to the referenced airgram instruction, in which the Department expressed the opinion that it would be desirable to negotiate a treaty of friendship, commerce and navigation with Japan immediately upon signing of the peace treaty, the Mission formally requested the American Chamber of Commerce in Japan to prepare suggestions regarding provisions of such a treaty. Enclosed, in this regard, is a copy of the Mission's letter of July 10, 1951, addressed to Mr. Richard A. MAY, President of the Chamber. No formal reply has yet been made to this letter. However, Mr. Frank H. ALE, Chairman of the Chamber's committee entrusted with the task of drafting the suggestions, informed the writer on August 15 that he expected to have the Chamber's reply sent to the Mission by about August 22.

A preliminary report of the action taken with respect to the Chamber was given in item 1 of the Mission's despatch no. 138 dated July 26, 1951, entitled "Weekly Economic Notes from Japan". In this despatch, the Mission also reported that the Japanese Government was favorably disposed to the proposal to negotiate a treaty of friendship, commerce and navigation with the United States, to replace the FCN treaty of 1911, and that Prime Minister Shigeru YOSHIDA, with whom Ambassador Sebald had informally discussed this matter, had sent a letter to Mr. Sadao IGUCHI, Vice Minister in charge of the Ministry of Foreign Affairs, directing the Ministry officials concerned to conduct informal conversations on this subject with the Mission's economic officers with the view to initiation of formal negotiations after the signing of the peace treaty.

In subsequent discussions between the writer and Mr. Morio YUKAWA, Director of the Ministry's International Economic Affairs Bureau, the latter indicated that the Ministry was keenly interested in negotiating a modern FCN treaty with the United States. He was supplied copies of the FCN treaties signed by the United States Government in recent years with Italy, Uruguay, Ireland, and Colombia, and was invited to have the Ministry make its informal views with respect to provisions of an FCN treaty with the United States available to the Mission for reference to the Department.

On August 15, Mr. Yukawa, accompanied by Mr. Kenichi OTABE, Deputy Director, International Economic Affairs Bureau, called by appointment upon the writer and gave him a copy of a so-called "model type" FCN treaty which Japan hopes to negotiate with various foreign countries. Six copies of this model FCN treaty are enclosed, together with a copy of a memorandum from the Ministry entitled

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INFORMATION COPY

"Observations on the Conclusion of a Treaty of Friendship, Commerce and Navigation with America".

Mr. Yukawa stated that technical experts of the Ministry had spent the last two years in preparation of the model FCN treaty, this work being undertaken within the Ministry as an essential step looking forward to negotiation by Japan of FCN treaties after the signing of the peace treaty. He said that initially the Ministry's experts had available for study only the post-war United States FCN treaties with China and Italy, and that the principles found in those treaties were considered in making the model treaty. Mr. Yukawa added that subsequently close study was also made of the United States FCN treaties with Uruguay, Iceland and Colombia. He emphasized that, although the model FCN treaty contained "almost all" provisions which the Japanese Government would like to have embodied in its new FCN treaties, the model treaty was tentative and by no means "rigid". For example, he said, the Japanese Government was fully prepared to discuss certain clauses with respect to the introduction and protection of foreign capital, as stated in paragraph three of the "Observations on the Conclusion of a Treaty of Friendship, Commerce and Navigation with America".

Mr. Yukawa, who stated that the model FCN treaty had been drafted with particular reference to the United States post-war FCN treaties and with little or no regard for the provisions contained in the 1911 Japan-United States FCN Treaty, said that the model FCN treaty was being made available at this time only to the United States Government. He added that when formal negotiations between the United States and Japanese Governments have started, however, then the Ministry expected to make copies of the model treaty available to other governments with which Japan desired to negotiate FCN treaties.

The attention of the Department is invited to paragraph four of the enclosed memorandum containing observations on the conclusion of an FCN treaty with the United States. It is noted that no provision is made in the draft treaty for various matters which it would prefer to cover in a separate consular service convention. Additionally, the Japanese Government indicates that it is prepared to discuss a treaty intended for the prevention of double taxation. Finally, and somewhat ambiguously, it is noted that the Japanese Government "is also desirous of discussing an agreement intended for the mutual reduction of tariff". Asked whether the latter might refer to a bilateral agreement between the United States and Japan or to the multilateral agreements under the General Agreement on Tariffs and Trade, Mr. Yukawa said that the multilateral agreements were meant.

Mr. Yukawa expressed the view that, since the modern United States FCN treaties were used as guides for the preparation of Japan's model FCN treaty, it was not anticipated that negotiation of a modern FCN treaty with the United States would be "too difficult" or subject to prolonged negotiations.

While the Mission is not in position at this time to analyze the model FCN treaty drafted by the Ministry of Foreign Affairs, it does believe that the Department will welcome this expression of Japanese views, even though they are of a tentative nature and admittedly not yet submitted to all concerned officials of the Japanese Government or to Japanese private trade and industrial organizations.

CONFIDENTIAL
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3 TOKYO 246

The Japanese Government expects that its PCN treaty with the United States will set a precedent for similar treaties with other countries. History is thus repeating itself for the "Treaty of Amity and Commerce between the United States and Japan", negotiated on behalf of the United States by Consul General Townsend Harris and signed at Yedo (now Tokyo) on July 29, 1858, the first treaty of its kind ever signed by Japan, also set a precedent for all successive treaties of this type signed by Japan with foreign countries in the latter part of the 19th century.

For the Political Advisors

**BEST COPY
AVAILABLE**

Carl H. Bowdinger
Carl H. Bowdinger
Economic Counselor

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1. Copy of letter dated July 10, 1951, to Mr. Hay, President, American Chamber of Commerce in Japan, Tokyo;
2. Six copies of model treaty entitled "Treaty of Friendship, Commerce and Navigation between Japan and . . .";
3. Copy of memorandum from Ministry of Foreign Affairs entitled "Observations on the Conclusion of a Treaty of Friendship, Commerce and Navigation with America".

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